

RMT:CRH/SME
F.# 2013R01026

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - - X

UNITED STATES OF AMERICA

- against -

JOHN DOE,

Defendant.

- - - - - X

ORDER TO CLOSE
COURTROOM AND FILE
DOCUMENTS UNDER SEAL

Docket No. 19 MC 149 (SMG)

Upon consideration of the joint motion of the United States of America and the defendant JOHN DOE, filed under seal, for an Order: to close the courtroom during the defendant's arraignment and change of plea hearing, and to seal the transcripts of that proceeding and this Order;

Having scheduled a public hearing on the motion and notified the public of the hearing by listing the date, time and location of the hearing on the public docket and the Court's public calendar; and

Having held a public hearing on the motion at which the parties and any intervenors were provided an opportunity to be heard; *and oral representations of the Government on the record*
Based on the submissions of the parties, the Court makes the following findings: *on 1/23/19,*

1. There is a substantial probability that a public proceeding would prejudice a compelling interest of the government in the integrity of significant government

activities entitled to confidentiality, including ongoing investigations of serious criminal activity;

2. No reasonable alternatives to closure of the courtroom exist that can adequately protect the compelling interests that would be prejudiced by a public proceeding, identified above; and

3. The prejudice to the compelling interests identified above overrides the public's and the media's qualified First Amendment right to access the plea proceedings.

Accordingly, pursuant to United States v. Alcantara, 396 F.3d 189 (2d Cir. 2005), and United States v. John Doe, 63 F.3d 121 (2d Cir. 1995),

IT IS ORDERED that the motion to close the courtroom during the defendant's change of plea hearing and to seal the transcripts of the proceeding and this Order is hereby granted;

IT IS FURTHER ORDERED that the closure of the courtroom be tailored by requiring the government, with advance notice to the defendant, to disclose the transcript as required by Brady v. Maryland, 373 U.S. 83 (1963), Giglio v. United States, 405 U.S. 150 (1972), 18 U.S.C. § 3500 and/or Rule 16 of the Federal Rules of Criminal Procedure;

IT IS FURTHER ORDERED that the closure of the courtroom be tailored by requiring the government and the defendant to move this Court to unseal the transcript of the proceeding and substitute the defendant's true name for "John Doe" in the docket caption when the prejudice to the parties' interests no longer outweighs the public's qualified right to access; and

IT IS FURTHER ORDERED that the public docket will immediately be amended to reflect the occurrence of the hearing on the motion to close the courtroom, the disposition of the motion and the fact of courtroom closure.

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SO ORDERED.

Dated: Brooklyn, New York
January 12, 2019

S/ Steven M. Gold, U.S.M.J.

THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK